

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Rural Health Care)	WC Docket No. 02-60
Support Mechanism)	

COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The National Telecommunications Cooperative Association (NTCA) hereby submits the following comments in response to the Commission's Notice of Proposed Rulemaking (NPRM) released April 19, 2002, inviting comment on how to improve the rural health care universal service support mechanism.¹

NTCA is a national association representing more than 500 rural incumbent local exchange carriers (ILECs). All NTCA members are classified as "rural telephone companies" under the Telecommunications Act of 1996 (Act).

I. INTRODUCTION

The Commission's NPRM seeks comment on proposed modifications to its rules governing the rural health care universal service support mechanism. The rural health care mechanism was implemented at the direction of Congress to provide discounts to facilitate the ability of rural health care providers to have critical access to modern telecommunications and information services for medical and health maintenance purposes to rural America.

¹ *Notice of Proposed Rulemaking In the Matter of Rural Health Care Support Mechanism*, WC Docket No. 02-60, FCC 02-122, released April 19, 2002.

In its first four years (funding year 4 ends June 30, 2002), participation has not met the Commission's initial projections. The program, which is capped at \$400 million annually, is expect to commit \$14 million in support for Year 4, the most money committed annually to date. Given the under utilization of the program, the Commission initiated this NPRM and seeks comment on proposed modifications to the program that will encourage greater participation by rural health care providers. Specifically, the Commission seeks comment on whether to: 1) clarify how to treat eligible entities that also perform functions that are outside the statutory definition of "health care provider"; 2) streamline the application process; 3) provide support for Internet access charges; and 4) change the calculation of discounted services, including the calculation of urban and rural rates.

NTCA will limit its comments here to questions two and four. NTCA believes that rural health care providers themselves are best able to answer the question of whether the definition of a "health care provider" should be altered and urges the Commission to heed their recommendations regarding this issue, as well as, recommendations on streamlining the program forms and application process.

II. THE PROCESS FOR RECEIVING FUNDS SHOULD BE SIMPLIFIED

The current process for receiving rural health care support is burdensome and costly for applicants. If the Commission truly wants to make this program useful it must simplify and streamline the process.

Under the current rules, three types of support available for eligible rural health care providers:

Non-distance based: For non-distance based service charges, qualifying entities receive discounts for the difference between the urban and rural rates.² Supports one-time installation charge and monthly fee for a line, such as T1.

Distance-based support: USAC calculates a Standard Urban Distance (SUD) for each state. When a rural health provider applies for the program, USAC calculates the Maximum Allowable Distance (MAD) for each rural health applicant. This is the distance between a rural health care provider and the farthest point on the jurisdictional boundary of the nearest large city with at least 50,000 people. The rural health provider receives a discount on distance-based charges for services over any distance greater than the SUD but less than the MAD.³

Toll charges: Usage and toll charges are not eligible for support with the exception of long-distance charges incurred by a rural health care provider to connect to an Internet Service Provider (ISP) - they are unable to obtain toll free access to the Internet. This support is limited to the lesser of 30 hours or \$180.00 per month. Toll support is currently unused due to the proliferation of ISPs and virtual ubiquitous availability of local access to an ISP.

The vast majority of funds allocated by the program are distanced-based discounts. In 1999, the Commission directed USAC to “consider the base rates for telecommunications service elements in rural areas to be reasonably comparable to the base rates charged for similar telecommunications service elements in urban areas in that

² Example: if rural health provider is charged by a telecom provider \$250 for ISDN (128 Kbps) line installation and a \$175 a month service fee, but the urban rate in the nearest city of at least 50,000 people is only \$150 for installation and \$100 per month service fee, the rural health provider would get a \$100 installation credit and a discount of \$75 a month to bring cost to a comparable level.

³ Example: if a rural health provider has a dedicated T1 line from its site to an urban hospital with a circuit distance of 100 miles, the MAD is 125 miles, the telecom provider charges \$10 per mile for the line, and

state . . . Consequently, in the rare instances where there is a difference between the urban and rural base rates for services, we require the rural health care provider or carrier to provide the evidence.”⁴ In effect, the Commission acknowledged that using its current urban/rural rate comparison methodology to determine discounts, except for in rare instances, results in de minimis to no actual discount on non-distance related charges for rural health care providers.

The Commission also acknowledged that the main difference between urban and rural rates result from distance related charges, making this portion of the program the most beneficial to applicants. When a rural health provider files Form 465 with the administrator, USAC then must calculate the Maximum Allowable Distance (MAD) for that applicant to determine its level of support. Requiring an applicant to expend resources, complete application forms, and produce proof of urban rates before knowing the discount they may qualify for is a deterrent. The health care profession is notoriously under funded and understaffed, and these problems are only compounded in rural areas. Few health care providers are willing to expend scarce resources to apply for a program whose benefit is unknown.

To encourage participation in the program, a reasonable estimate of the discount must be calculable by the rural health care providers and rural telecommunications service providers. Giving potential applicants the ability to reasonably calculate the level of discount they may receive will garner increased interest and participation in the program. This may be accomplished by publishing the SUD for each state thus making it

the SUD rate for the state is 10 miles, the rural health provider would be eligible for \$900 dollars per month.

available to rural health care providers, tying non-distance based support to the urban rate in the nearest city of at least 100,000, instead of the current 50,000, and requiring the state PUCs to publish that rate would allow potential applicants to approximate the discount available to them.

In addition, the Commission should make all efforts to further streamline and simplify the application process. A quick review of the rural health care universal service support mechanism reveals that a total of four forms must be completed by the health care and telecommunications provider for funds to be committed, while a total of three forms is required for applicants to receive funding from the schools and libraries program.⁵ While the programs are different, it is not apparent what elements of the rural health program require the filing of an additional complicated form. The schools and libraries program is viewed as a huge success with demand far exceeding the funding cap each year. The schools and libraries program can serve as an example of what the rural health care program can be. In considering ways to streamline the application process, NTCA strongly urges the FCC to pay particular attention to the recommendations of the rural health care providers who have direct experience with the applications process.

III. URBAN/RURAL DISCOUNT CALCULATION SHOULD BE MODIFIED

If the FCC determines that it must comply with section 254(h)(1)(A) of the Telecommunications Act of 1996 and continue to base rural health care discounts on the

⁴ *Sixth Order on Reconsideration & Fifteenth Order on Reconsideration in the Matter of Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21, 96-45, FCC 99-269, released Nov. 1, 1999, para. 34 & 35.

⁵ Rural health care program applicants are required to file FCC Forms 465, 466 and 468, while the telecom service provide must complete FCC Form 468. See

<http://rhc.universalservice.org/overview/processoverview.asp>. Schools and libraries program applicants must file FCC Forms 470, 471 & 486. If a school or library pays the full bill for the supported service it must also complete FCC Form 472 to receive reimbursement directly from USAC. See <http://www.sl.universalservice.org/data/doc/ProgramDescriptionY4.doc>.

difference, if any, between urban and rural rates, then it must modify its definition of urban.⁶ As previously stated, the FCC realized that often times the primary difference between rates in urban and rural areas are distance based, therefore the FCC implemented the distance based support, calculated by the health care providers distance to the nearest town of 50,000 or more. The Commission notes in the NPRM that “evidence suggests the largest cities in a state have significantly lower rates and more services options than the city of at least 50,000 nearest the rural health care providers.”⁷ In addition, the Commission notes that evidence suggests that many rural health care providers choose to link to telemedicine networks in the larger cities and not to the nearest town of 50,000. In light of this evidence, the Commission asks whether, in determining the urban rate, the administrator should allow comparison with a more urban area within a state and not just the nearest town with a population of at least 50,000.

In light of the Commission’s own determination that rates in rural areas and those in a town with a population of at least 50,000 are comparable, and Commission evidence that small cities do not yet fully reflect the economies of scale and scope that are found in the most densely populated areas of the state, NTCA believes that the Commission should modify its calculation of discounts under the rural health care mechanism.

However, the Commission is limited by wording of the statute. Section 254(h)(1)(A) of the 1996 Act states that discounts for “telecommunication services” should be based on the difference between urban and rural rates within a state. Based on the evidence presented in the NPRM and discussions with NTCA member companies, the

⁶ The determination to base discounts on the rate in the nearest town of 50,000 or more was made by the Commission and is not set by law. The definition of “urban” in the rural health care program context is fully within the discretion of the Commission.

Commission should allow discounts to be based on more densely populated cities in a state. NTCA recommends rural rates be compared to the nearest city of 100,000 or more. If the goal is to base support on an urban rate then the Commission need look no further than the definition of rural in the Telecom Act for guidance. One of the criteria for being defined a rural telecommunication carrier is that it must provide “telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines.”⁸ Using this definition, the Commission could deduce that any study area serving less than 100,000 people is rural. Once this is determined it is reasonable for the agency to conclude that a city with a population of 100,000 or more would be reasonably urban for the purpose of the urban/rural comparison.

If a state does not have a city with a population of 100,000 or more, then it should be allowed to use the urban rate in the nearest city of that size outside the state. NTCA believes that the “competitively neutral” language in section 254(h)(2) gives the FCC the authority to allow a comparison of rates with the nearest large city outside of the state. To deny rural states lacking cities with a population of 100,000 or greater adequate discounts would contradict the letter and spirit of the law and intent of the program. In the alternative, the FCC could require each state public utility commission to publish state average urban rates for multiple eligible services, which would serve as the benchmark for that state.

These changes would promote increased program participation by providing applicants with a predictable estimate of their level of support prior to entering the

⁷ *NPRM*, para 42.

⁸ 47 U.S.C. § 3, para.37(C).

application process and increase the level of discounts available by using a truly urban rate based on a more densely populated city in a state or a state urban average.

As previously stated, the Commission recognized that the primary cause for differing rates in urban and rural areas are distance related charges and that the distance related support is the most utilized portion of the rural health care mechanism. This fact proves the usefulness of distance-based support to the most isolated health care providers. Alaska is a good example of the benefits of distance-based support. In the program's third funding year Alaska received the bulk of support with approximately \$3 million of the little more than \$10 million total distributed. Distance related support is the most successful portion of the program and should be kept.

IV. CONCLUSION

The rural health care universal service support mechanism is under utilized. The Commission should streamline program forms and application processes, as well as, make discounts more predictable to encourage greater participation. If the Commission believes that the urban/rural comparison must be retained, NTCA urged the Commission to alter its rules to allow the rural rate to be compared to the nearest city with a population of at least 100,000 instead of the current 50,000. Expanding the usefulness of this program is in the public interest and helps to improve medical services available to rural America.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WC Docket No. 02-60, FCC 02-122 was served on this 1st day of July 2002 by first-class, U.S. Mail, postage prepaid, to the following persons.

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